
A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 281-78, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) At no time under any circumstances shall any licensee
4 or its employee:

5 (1) Sell, serve, or furnish any liquor to, or allow the
6 consumption of any liquor by:

7 (A) Any minor;

8 (B) Any person at the time under the influence of
9 liquor;

10 (C) Any person known to the licensee to be addicted
11 to the excessive use of intoxicating liquor; ~~[or]~~

12 (D) Any restricted person; or

13 ~~[-D-]~~ (E) Any person for consumption in any vehicle
14 that is licensed to travel on public highways;

15 provided that the consumption or sale of liquor to a
16 minor or restricted person shall not be deemed to be a
17 violation of this subsection if, in making the sale or



1 allowing the consumption of any liquor by a minor[7]
2 or restricted person, the licensee was misled by the
3 appearance of the minor or restricted person and the
4 attending circumstances into honestly believing that
5 the minor was of legal age or the person was not
6 restricted and the licensee acted in good faith; [and]
7 provided further that it shall be incumbent upon the
8 licensee to prove that the licensee so acted in good
9 faith;

10 (2) Permit any liquor to be consumed on the premises of
11 the licensee or on any premises connected therewith,
12 whether there purchased or not, except as permitted by
13 the terms of its license;

14 (3) Permit any liquor to be sold or served by any person
15 eighteen to twenty years of age except in licensed
16 establishments where selling or serving the
17 intoxicating liquor is part of the minor's employment,
18 and where there is proper supervision of these minor
19 employees to ensure that the minors shall not consume
20 the intoxicating liquor;



- 1 (4) Permit any liquor to be sold or served by any person
2 below the age of eighteen years upon any licensed
3 premises, except in individually specified licensed
4 establishments found to be otherwise suitable by the
5 liquor commission in which an approved program of job
6 training and employment for dining room waiters and
7 waitresses is being conducted in cooperation with the
8 University of Hawaii, the state community college
9 system, or a federally sponsored personnel development
10 and training program, under arrangements that ensure
11 proper control and supervision of employees;
- 12 (5) Knowingly permit any person under the influence of
13 liquor or disorderly person to be or remain in or on
14 the licensed premises;
- 15 (6) Fail to timely prevent or suppress any violent,
16 quarrelsome, disorderly, lewd, immoral, or unlawful
17 conduct of any person on the premises;
- 18 (7) Sell any draught beer unless upon the faucet, spigot,
19 or outlet wherefrom the beer is drawn there is
20 attached a clear and legible notice, placard, or
21 marker which in the English language indicates and



1 declares the name or brand adopted by the manufacturer
2 of the draught beer, so situated as to be clearly
3 legible for a distance of at least ten feet from the
4 spigot, faucet, or outlet, to a purchaser with normal
5 vision; or

6 (8) Receive from a person, as payment or as a
7 consideration for liquor, any personal or household
8 goods, including clothing and food, or any implements
9 of trade. Any person violating this paragraph shall
10 be guilty of a misdemeanor and upon conviction shall
11 be punished as provided in section 281-102.

12 For purposes of this subsection, "restricted person" has
13 the same meaning as in section 712-1250.5."

14 SECTION 2. Section 281-101.5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§281-101.5 Prohibitions involving minors[+] or restricted**
17 **persons; penalty.** (a) Any adult who provides or purchases
18 liquor for consumption or use by a person under twenty-one years
19 of age or any restricted person shall be guilty of the offense
20 under section 712-1250.5.



1 (b) No minor or restricted person shall consume or
2 purchase liquor and no minor or restricted person shall consume
3 or have liquor in the minor's or restricted person's possession
4 or custody in any public place, public gathering, or public
5 amusement, at any public beach or public park, or in any motor
6 vehicle on a public highway; provided that notwithstanding any
7 other law to the contrary, this subsection shall not apply to:

8 (1) Possession or custody of liquor by a minor or
9 restricted person in the course of delivery, pursuant
10 to the direction of the minor's or restricted person's
11 employer lawfully engaged in business necessitating
12 the delivery;

13 (2) Possession, custody, or consumption of liquor by a
14 minor or restricted person in connection with the
15 minor's or restricted person's authorized
16 participation in religious ceremonies requiring such
17 possession, custody, or consumption; or

18 (3) Any person between the ages of eighteen and twenty,
19 who is participating in a controlled purchase as part
20 of a law enforcement activity or a study authorized by



1 the department of health to determine the level of
2 incidence of liquor sales to minors.

3 (c) No minor or restricted person shall falsify any
4 identification or use any false identification or identification
5 of another person or of a fictitious person for the purpose of
6 buying or attempting to buy liquor or for the purpose of
7 obtaining employment to sell or serve liquor on licensed
8 premises.

9 (d) Any person under age eighteen who violates this
10 section shall be subject to the jurisdiction of the family
11 court. Any restricted person over the age of twenty-one who
12 violates this section or person age eighteen to twenty-one who
13 violates subsection (b) or (c) shall be guilty of a petty
14 misdemeanor. The court shall order that any person under
15 twenty-one years of age found to be in violation of this section
16 shall have, in addition to any other disposition or sentencing
17 provision permitted by law, the person's license to operate a
18 motor vehicle, or the person's ability to obtain a license to
19 operate a motor vehicle, suspended as follows:

20 (1) For licensed drivers, the driver's license shall be
21 suspended for ~~not~~ no less than one hundred and



1 eighty days with exceptions to allow, at the
2 discretion of the sentencing court, driving to and
3 from school, school-sponsored activities, and
4 employment;

5 (2) For persons with a provisional license, the
6 provisional license shall be suspended for [~~not~~] no
7 less than one hundred and eighty days with exceptions
8 to allow, at the discretion of the sentencing court,
9 driving to and from school, school-sponsored
10 activities, and employment;

11 (3) For persons with an instruction permit, the
12 instruction permit shall be suspended for [~~not~~] no
13 less than one hundred and eighty days with exceptions
14 to allow, at the discretion of the sentencing court,
15 driving to and from school, school-sponsored
16 activities, and employment; or

17 (4) For persons not licensed to drive, eligibility to
18 obtain a driver's license, provisional license, or
19 instruction permit shall be suspended until the age of
20 seventeen or for one hundred and eighty days, at the
21 discretion of the court; and



1 (5) ~~[Chapter 571 notwithstanding,]~~ Notwithstanding chapter
2 571, in any case where a person under the age of
3 eighteen violates this section, the family court judge
4 may suspend the driver's license, provisional license,
5 or instruction permit, or suspend the eligibility to
6 obtain a driver's license, provisional license, or
7 instruction permit in accordance with this section;
8 provided that the requirement to provide proof of financial
9 responsibility pursuant to section 287-20 shall not be based
10 upon a sentence imposed under paragraphs (1) and (2). In
11 addition, all persons whether or not licensed, found to be in
12 violation of this section shall be sentenced to seventy-five
13 hours of community service work, and an eight to twelve hour
14 program of alcohol education and counseling the costs of which
15 shall be borne by the offender or the offender's parent or
16 guardian.

17 (e) As used in this section~~[, "consume"]~~ :

18 "Consume" or "consumption" includes the ingestion of
19 liquor.

20 "Restricted person" has the same meaning as in section
21 712-1250.5."



1 SECTION 3. Section 286-103, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§286-103 Restrictions on driver's license; rules and
4 regulations. (a) The examiner of drivers may adopt rules and
5 regulations restricting the use of a driver's license in any
6 manner the examiner of drivers may deem necessary for the safety
7 and welfare of the traveling public and may impose restrictions
8 with respect to the type of equipment or special mechanical
9 control devices required on the motor vehicle operated by the
10 licensee appropriate to the driving ability of the licensee.
11 Any restrictions shall be indicated on the license issued.

12 (b) The examiner of drivers shall adopt rules restricting
13 the use of a driver's license issued to a person prohibited from
14 purchasing or publicly consuming liquor during the probation
15 period invoked pursuant to section 291E-61 or 291E-61.5. A
16 license subject to this subsection shall bear the notation
17 "Liquor Restricted" and shall not be accepted as a valid form of
18 identification for the purchase of liquor. A driver's license
19 that bears the notation "Liquor Restricted" shall expire no
20 later than the date upon which the probation period expires, as
21 determined by the court."



1 SECTION 4. Section 286-106, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§286-106 Expiration of licenses.** Every driver's license
4 issued under this part, except for a provisional license issued
5 under section 286-102.6 which shall expire on the date of the
6 provisional licensee's nineteenth birthday, whether an original
7 issuance or a renewal, shall expire on the first birthday of the
8 licensee occurring [~~not~~] no less than eight years after the date
9 of the issuance of the license, unless sooner revoked or
10 suspended; provided that:

11 (1) The license shall expire on the first birthday of the
12 licensee occurring [~~not~~] no less than four years after
13 the date of the issuance if, at the time, the licensee
14 is twenty-four years of age or younger;

15 (2) The license shall expire on the first birthday of the
16 licensee occurring [~~not~~] no less than two years after
17 the date of the issuance of the license if, at that
18 time, the licensee is seventy-two years of age or
19 older; [~~and~~]



(3) If the licensee is a legal immigrant, the license shall expire no later than the licensee's authorized period of stay in the United States[-]; and

(4) A license that bears the notation "Liquor Restricted" issued to any person prohibited from purchasing or publicly consuming liquor during a probation period that commences on the date that revocation of the person's driver's license for violation of section 291E-61 or section 291E-61.5 became effective shall expire no later than the date of expiration of the probation period, as determined by the court.

The examiner of drivers may issue a license for a shorter period if the licensee has a physical condition or conditions that the examiner of drivers reasonably believes may impair the driver's ability to drive."

SECTION 5. Section 286-305, Hawaii Revised Statutes, is amended to read as follows:

"§286-305 Contents and characteristics; form. (a) Each identification card issued by the examiner of drivers shall display a distinguishing number assigned to the cardholder, and shall display the following inscription:



1 "STATE OF HAWAII IDENTIFICATION CARD"

2 (b) The examiner of drivers, after obtaining the
3 fingerprint of the applicant as provided in this part and after
4 obtaining the information required by or pursuant to this part,
5 shall issue to each applicant an identification card in a form
6 and with identifying information that the director deems
7 necessary and appropriate, including a notation of veteran
8 status, if desired by the applicant, on the front of the card
9 where applicable; provided that such notation shall not include
10 any designation other than the term "veteran". As used in this
11 subsection, "veteran" means any person who served in any of the
12 uniformed services of the United States and was discharged under
13 conditions other than dishonorable.

14 (c) The identification card shall not display the
15 cardholder's social security number.

16 (d) The identification card shall be designed to prevent
17 its reproduction or alteration without ready detection.

18 (e) The identification card for individuals under twenty-
19 one years of age shall have characteristics prescribed by the
20 examiner distinguishing it from that issued to [a] an individual
21 who is twenty-one years of age or older.



1 (f) An identification card issued to an individual who has
2 been convicted for a violation of section 291E-61 or 291E-61.5
3 and has been prohibited from purchasing or publicly consuming
4 liquor shall bear the notation "Liquor Restricted". The
5 identification card shall be valid for a probation period,
6 commencing on the date of conviction. The issuance of an
7 identification card pursuant to this subsection shall invalidate
8 any prior identification card issued to the individual that does
9 not bear the notation required by this subsection, regardless of
10 the date of expiration listed on the identification card. An
11 identification card issued pursuant to this subsection shall not
12 be valid identification for the purchase of liquor."

13 SECTION 6. Section 287-20, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Whenever a driver's license has been suspended or
16 revoked:

17 (1) Pursuant to section 291E-65 or part III of chapter
18 291E, except as provided in section [~~291E-41(f)~~],
19 291E-41(g);

20 (2) Upon a conviction of any offense pursuant to law,
21 except where the conduct giving rise to the instant



1 offense is also a violation of part III of chapter
2 291E and a requirement to furnish and maintain proof
3 of financial responsibility has already been imposed
4 pursuant to that part; or

5 (3) In the case of minors, pursuant to part V of chapter
6 571,

7 the license shall not at any time thereafter be issued to the
8 person whose license has been suspended or revoked, nor shall
9 the person thereafter operate a motor vehicle, unless and until
10 the person has furnished and thereafter maintains proof of
11 financial responsibility; provided that this section shall not
12 apply to a license suspended or revoked pursuant to section
13 291E-61(b)(1) or 291E-64(b)(1), any conviction of a moving
14 violation, any administrative license suspension pursuant to
15 chapter 291A, or the first conviction within a five-year period
16 for driving without a valid motor vehicle insurance policy.

17 This subsection shall not apply to a suspension or
18 revocation of a provisional license under section 286-102.6(d)."

19 SECTION 7. Section 291E-34, Hawaii Revised Statutes, is
20 amended as follows:

21 1. By amending subsection (e) to read:



1 "(e) The notice shall state that, if the respondent's
2 license and privilege to operate a vehicle is administratively
3 revoked after the review, a decision shall be mailed to the
4 respondent, or to the parent or guardian of the respondent if
5 the respondent is under the age of eighteen, that shall contain,
6 at a minimum, the following information:

7 (1) The reasons why the respondent's license and privilege
8 to operate a vehicle is administratively revoked;

9 (2) That the respondent may request the director, within
10 six days of the date the decision is mailed, to
11 schedule an administrative hearing to review the
12 administrative revocation;

13 (3) That, if the respondent's request for an
14 administrative hearing is received by the director
15 within six days of the date the decision was mailed,
16 the hearing shall be scheduled to commence:

17 (A) No later than twenty-five days after the date of
18 the issuance of the notice of administrative
19 revocation in the case of an alcohol related
20 offense; and



1 (B) No later than thirty-nine days after the date of
2 the issuance of the notice of administrative
3 revocation in the case of a drug related offense;

4 (4) The procedure to request an administrative hearing;

5 (5) That failure to request an administrative hearing
6 within the time provided shall cause the
7 administrative revocation to take effect for the
8 period and under the conditions established by the
9 director in the decision;

10 (6) That the respondent may regain the right to a hearing
11 by requesting the director, within sixty days after
12 the issuance of the notice of administrative
13 revocation, to schedule a hearing;

14 (7) That the director shall schedule the hearing to
15 commence no later than thirty days after a request
16 under paragraph (6) is received, but that, except as
17 provided in section 291E-38(j), the temporary permit
18 shall not be extended if the respondent fails to
19 request an administrative hearing within the initial
20 six-day period provided for that purpose;



(8) That failure to attend the hearing shall cause the administrative revocation to take effect for the period and under the conditions indicated;

(9) The duration of the administrative revocation and other conditions that may be imposed, including[+] referral to the driver's education program for an assessment of the respondent's substance abuse or dependence and the need for treatment; [~~and~~]

(10) That the respondent shall obtain an ignition interlock permit in order to operate a vehicle during the revocation period if the respondent had a valid license at the time of the arrest[-]; and

(11) That if no ignition interlock or similar system is permitted and installed, the respondent shall be prohibited from purchasing or publicly consuming liquor for a probation period commencing on the date that the administrative revocation of the respondent's license becomes effective."

2. By amending subsection (h) to read:

"(h) The notice shall state that, if the administrative revocation is sustained at the hearing, a written decision shall



1 be mailed to the respondent, or to the parent or guardian of the
2 respondent if the respondent is under the age of eighteen, that
3 shall contain, at a minimum, the following information:

- 4 (1) The effective date of the administrative revocation;
- 5 (2) The duration of the administrative revocation;
- 6 (3) Other conditions that may be imposed by law, including
7 the use of an ignition interlock device[+] or a
8 probation period prohibiting the purchase or public
9 consumption of liquor; and
- 10 (4) The right to obtain judicial review."

11 SECTION 8. Section 291E-41, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§291E-41 Effective date, conditions, and period of**
14 **administrative revocation; criteria.** (a) Unless an
15 administrative revocation is reversed or the temporary permit is
16 extended by the director, administrative revocation shall become
17 effective on the day specified in the notice of administrative
18 revocation. Except as provided in section 291E-44.5, no license
19 and privilege to operate a vehicle shall be restored under any
20 circumstances during the administrative revocation period. Upon
21 completion of the administrative revocation period, the



1 respondent may reapply and be reissued a license pursuant to
2 section 291E-45.

3 (b) Except as provided in paragraph (5) and in section
4 291E-44.5, the respondent shall keep an ignition interlock
5 device installed and operating in any vehicle the respondent
6 operates during the revocation period. Except as provided in
7 section 291E-5, installation and maintenance of the ignition
8 interlock device shall be at the respondent's expense. The
9 periods of administrative revocation, with respect to a license
10 and privilege to operate a vehicle, that shall be imposed under
11 this part are as follows:

- 12 (1) A one year revocation of license and privilege to
13 operate a vehicle, if the respondent's record shows no
14 prior alcohol enforcement contact or drug enforcement
15 contact during the five years preceding the date the
16 notice of administrative revocation was issued;
- 17 (2) An eighteen month revocation of license and privilege
18 to operate a vehicle, if the respondent's record shows
19 one prior alcohol enforcement contact or drug
20 enforcement contact during the five years preceding



1 the date the notice of administrative revocation was
2 issued;

3 (3) A two-year revocation of license and privilege to
4 operate a vehicle, if the respondent's record shows
5 two prior alcohol enforcement contacts or drug
6 enforcement contacts during the five years preceding
7 the date the notice of administrative revocation was
8 issued;

9 (4) A minimum of five years up to a maximum of ten years
10 revocation of license and privilege to operate a
11 vehicle, if the respondent's record shows three or
12 more prior alcohol enforcement contacts or drug
13 enforcement contacts during the ten years preceding
14 the date the notice of administrative revocation was
15 issued;

16 (5) For respondents under the age of eighteen years who
17 were arrested for a violation of section 291E-61 or
18 291E-61.5, revocation of license and privilege to
19 operate a vehicle for the appropriate revocation
20 period provided in paragraphs (1) to (4) or in
21 subsection (c); provided that the respondent shall be



1 prohibited from driving during the period preceding
2 the respondent's eighteenth birthday and shall
3 thereafter be subject to the ignition interlock
4 requirement of this subsection for the balance of the
5 revocation period; or

6 (6) For respondents, other than those excepted pursuant to
7 section 291E-44.5(c), who do not install an ignition
8 interlock device in any vehicle the respondent
9 operates during the revocation period, revocation of
10 license and privilege to operate a vehicle for the
11 period of revocation provided in paragraphs (1) to (5)
12 or in subsection (c); provided that:

13 (A) The respondent shall be absolutely prohibited
14 from driving during the revocation period and
15 subject to the penalties provided by section
16 291E-62 if the respondent drives during the
17 revocation period; and

18 (B) The director shall not issue an ignition
19 interlock permit to the respondent pursuant to
20 section 291E-44.5;



1 provided that when more than one administrative revocation,
2 suspension, or conviction arises out of the same arrest, it
3 shall be counted as only one prior alcohol enforcement contact
4 or drug enforcement contact, whichever revocation, suspension,
5 or conviction occurs later.

6 (c) If a respondent has refused to be tested after being
7 informed:

8 (1) That the person may refuse to submit to testing in
9 compliance with section 291E-11; and

10 (2) Of the sanctions of this part and then asked if the
11 person still refuses to submit to a breath, blood, or
12 urine test, in compliance with the requirements of
13 section 291E-15,

14 the revocation imposed under subsection (b)(1), (2), (3), or (4)
15 shall be for a period of two years, three years, four years, or
16 ten years, respectively.

17 (d) Whenever a license and privilege to operate a vehicle
18 is administratively revoked under this part, the respondent
19 shall be referred to the driver's education program for an
20 assessment, by a certified substance abuse counselor, of the
21 respondent's substance abuse or dependence and the need for



1 treatment. The counselor shall submit a report with
2 recommendations to the director. If the counselor's assessment
3 establishes that the extent of the respondent's substance abuse
4 or dependence warrants treatment, the director shall so order.
5 All costs for assessment and treatment shall be paid by the
6 respondent.

7 (e) Unless an ignition interlock or similar system is
8 permitted and installed, whenever a license and privilege to
9 operate a vehicle is administratively revoked under this part,
10 the respondent shall be prohibited from purchasing or publicly
11 consuming liquor for a probation period commencing on the date
12 the administrative revocation becomes effective and expiring on
13 a date to be determined by the court. Any driver's license,
14 identification card, or special permit issued by a court
15 pursuant to section 291E-61 or the director pursuant to section
16 291E-44.5(c) to the respondent during the probation period
17 authorizing the respondent to operate a vehicle owned by the
18 respondent's employer shall bear the notation "Liquor
19 Restricted" and shall not be accepted as a valid form of
20 identification for the purchase of liquor.



1 ~~[(e)]~~ (f) Alcohol and drug enforcement contacts that
2 occurred prior to January 1, 2002, shall be counted in
3 determining the administrative revocation period.

4 ~~[(f)]~~ (g) The requirement to provide proof of financial
5 responsibility pursuant to section 287-20 shall not be based
6 upon a revocation under subsection (b)(1)."

7 SECTION 9. Section 291E-45, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) To be eligible for relicensing or renewing the
10 privilege to operate a vessel after a period of administrative
11 revocation has expired, the person shall:

12 (1) Submit proof to the director of compliance with all
13 conditions imposed by the director;

14 (2) Obtain a certified statement from the director
15 indicating eligibility for relicensing and for
16 renewing the privilege to operate a vessel;

17 (3) Present the certified statement to the appropriate
18 licensing official or to the department of land and
19 natural resources, as applicable; and

20 (4) Successfully complete each requirement, including
21 payment of all applicable fees, for:



1 (A) Obtaining a new license in this State, pursuant
2 to chapter 286; or

3 (B) Renewing the privilege to operate a vessel, as
4 may be provided in chapter 200 or rules adopted
5 by the department of land and natural resources
6 pursuant to section 200-24.

7 Any license issued or renewed pursuant to this subsection
8 during the probation period that commences on the date the
9 administrative revocation of the person's license became
10 effective shall bear the notation "Liquor Restricted" and shall
11 not be accepted as a valid form of identification for the
12 purchase of liquor. A license that bears the notation "Liquor
13 Restricted" shall expire on the date upon which the probation
14 period expires, as determined by the court."

15 SECTION 10. Section 291E-61, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By amending subsection (b) to read:

18 "(b) A person committing the offense of operating a
19 vehicle under the influence of an intoxicant shall be sentenced
20 without possibility of probation or suspension of sentence as
21 follows:



1 (1) For the first offense, or any offense not preceded
2 within a [~~five-year~~] ten-year period by a conviction
3 for an offense under this section or section
4 291E-4 (a) :

5 (A) A fourteen-hour minimum substance abuse
6 rehabilitation program, including education and
7 counseling, or other comparable program deemed
8 appropriate by the court;

9 (B) One-year revocation of license and privilege to
10 operate a vehicle during the revocation period
11 and installation during the revocation period of
12 an ignition interlock device on any vehicle
13 operated by the person;

14 (C) Any one or more of the following:

15 (i) Seventy-two hours of community service work;

16 (ii) [~~Not~~] No less than forty-eight hours and not
17 more than five days of imprisonment; or

18 (iii) A fine of [~~not~~] no less than [~~\$150~~] \$250 but
19 [~~not~~] no more than \$1,000;

20 (D) A surcharge of \$25 to be deposited into the
21 neurotrauma special fund; [~~and~~]



1 (E) A surcharge, if the court so orders, of up to \$25
2 to be deposited into the trauma system special
3 fund; and

4 (F) If no ignition interlock or similar system is
5 permitted and installed, a probation period,
6 commencing on the effective date of the license
7 revocation period under subparagraph (B) and
8 expiring on a date to be determined by the court,
9 prohibiting the purchase or public consumption of
10 liquor by the person, if deemed appropriate by
11 the court;

12 (2) For an offense that occurs within [~~five~~] ten years of
13 a prior conviction for an offense under this section
14 or section 291E-4(a):

15 (A) Revocation for not less than [~~eighteen~~] twenty-
16 four months nor more than [~~two~~] three years of
17 license and privilege to operate a vehicle during
18 the revocation period and installation during the
19 revocation period of an ignition interlock device
20 on any vehicle operated by the person;

21 (B) Either one of the following:



(i) ~~[Not]~~ No less than two hundred forty hours
of community service work; or

(ii) ~~[Not]~~ No less than five days but ~~[not]~~ no
more than thirty days of imprisonment, of
which at least forty-eight hours shall be
served consecutively;

(C) A fine of ~~[not]~~ no less than ~~[\$500]~~ \$1,000 but
~~[not]~~ no more than ~~[\$1,500,]~~ \$3,000;

(D) A surcharge of \$25 to be deposited into the
neurotrauma special fund; ~~[and]~~

(E) A surcharge of up to \$50, if the court so orders,
to be deposited into the trauma system special
fund; and

(F) If no ignition interlock or similar system is
permitted and installed, a probation period,
commencing on the effective date of the license
revocation period under subparagraph (A) and
expiring on a date to be determined by the court,
prohibiting the purchase or public consumption of
liquor by the person, if deemed appropriate by
the court;



1 ~~[(3) For an offense that occurs within five years of two~~
2 ~~prior convictions for offenses under this section or~~
3 ~~section 291E 4(a):~~

4 ~~(A) A fine of not less than \$500 but not more than~~
5 ~~\$2,500;~~

6 ~~(B) Revocation for two years of license and privilege~~
7 ~~to operate a vehicle during the revocation period~~
8 ~~and installation during the revocation period of~~
9 ~~an ignition interlock device on any vehicle~~
10 ~~operated by the person;~~

11 ~~(C) Not less than ten days but not more than thirty~~
12 ~~days imprisonment, of which at least forty-eight~~
13 ~~hours shall be served consecutively;~~

14 ~~(D) A surcharge of \$25 to be deposited into the~~
15 ~~neurotrauma special fund; and~~

16 ~~(E) A surcharge of up to \$50 if the court so orders,~~
17 ~~to be deposited into the trauma system special~~
18 ~~fund;~~

19 ~~(4)]~~ (3) In addition to a sentence imposed under
20 paragraphs (1) ~~[through (3),]~~ and (2), any person
21 eighteen years of age or older who is convicted under



1 this section and who operated a vehicle with a
2 passenger, in or on the vehicle, who was younger than
3 fifteen years of age, shall be sentenced to an
4 additional mandatory fine of \$500 and an additional
5 mandatory term of imprisonment of forty-eight hours;
6 provided that the total term of imprisonment for a
7 person convicted under this paragraph shall not exceed
8 the maximum term of imprisonment provided in paragraph
9 (1) ~~[7]~~ or (2), ~~[or (3),]~~ as applicable.

10 Notwithstanding paragraphs (1) and (2), the revocation
11 period for a person sentenced under this paragraph
12 shall be ~~[not]~~ no less than two years; and

13 ~~[(4)]~~ (4) If the person demonstrates to the court that the
14 person:

- 15 (A) Does not own or have the use of a vehicle in
16 which the person can install an ignition
17 interlock device during the revocation period; or
18 (B) Is otherwise unable to drive during the
19 revocation period,

20 the person shall be absolutely prohibited from driving during
21 the period of applicable revocation provided in paragraphs (1)



1 to ~~[(4)]~~ (3); provided that the court shall not issue an
2 ignition interlock permit pursuant to subsection (i) and the
3 person shall be subject to the penalties provided by section
4 291E-62 if the person drives during the applicable revocation
5 period."

6 2. By amending subsection (d) to read:

7 "(d) Except as provided in subsection (c), the court may
8 issue a separate permit authorizing a defendant to operate a
9 vehicle owned by the defendant's employer during the period of
10 revocation without installation of an ignition interlock device
11 if the defendant is gainfully employed in a position that
12 requires driving and the defendant will be discharged if
13 prohibited from driving a vehicle not equipped with an ignition
14 interlock device. Any separate permit issued pursuant to this
15 subsection to a person prohibited from purchasing or publicly
16 consuming liquor during the probation period that commences on
17 the effective date of the administrative revocation of the
18 person's license shall bear the notation "Liquor Restricted" and
19 shall not be accepted as a valid form of identification for the
20 purchase of liquor. A separate permit that bears the notation



1 "Liquor Restricted" shall expire no later than the date upon
2 which the probation period expires, as determined by the court."

3 3. By amending subsection (j) to read:

4 "(j) Notwithstanding any other law to the contrary,
5 whenever a court revokes a person's driver's license pursuant to
6 this section, the examiner of drivers shall not grant to the
7 person a new driver's license until the expiration of the period
8 of revocation determined by the court. After the period of
9 revocation is completed, the person may apply for and the
10 examiner of drivers may grant to the person a new driver's
11 license. Any new driver's license granted pursuant to this
12 subsection to a person prohibited from purchasing or publicly
13 consuming liquor during the probation period that commences on
14 the effective date of the administrative revocation of the
15 person's license shall bear the notation "Liquor Restricted" and
16 shall not be accepted as a valid form of identification for the
17 purchase of liquor. A driver's license that bears the notation
18 "Liquor Restricted" shall expire no later than the date upon
19 which the probation period expires, as determined by the court."

20 SECTION 11. Section 291E-61.5, Hawaii Revised Statutes, is
21 amended as follows:



1 1. By amending subsection (b) to read:

2 "(b) For the purposes of this section:

3 (1) "Convicted [~~three~~] two or more times for offenses of
4 operating a vehicle under the influence" means that,
5 at the time of the behavior for which the person is
6 charged under this section, the person had [~~three~~] two
7 or more times [~~within ten years of the instant~~
8 offense]:

9 (A) A judgment on a verdict or a finding of guilty,
10 or a plea of guilty or nolo contendere, for a
11 violation of section 291-4, 291-4.4, or 291-7 as
12 those sections were in effect on December 31,
13 2001, or section 291E-61 or 707-702.5;

14 (B) A judgment on a verdict or a finding of guilty,
15 or a plea of guilty or nolo contendere, for an
16 offense that is comparable to section 291-4,
17 291-4.4, or 291-7 as those sections were in
18 effect on December 31, 2001, or section 291E-61
19 or 707-702.5; or

20 (C) An adjudication of a minor for a law or probation
21 violation that, if committed by an adult, would



1 constitute a violation of section 291-4, 291-4.4,
2 or 291-7 as those sections were in effect on
3 December 31, 2001, or section 291E-61 or
4 707-702.5,

5 that, at the time of the instant offense, had not been
6 expunged by pardon, reversed, or set aside. All
7 convictions that have been expunged by pardon,
8 reversed, or set aside prior to the instant offense
9 shall not be deemed prior convictions for the purposes
10 of proving that the person is a habitual operator of a
11 vehicle while under the influence of an intoxicant.

12 (2) "Convicted one or more times for offenses of
13 habitually operating a vehicle under the influence"
14 means that, at the time of the behavior for which the
15 person is charged under this section, the person had
16 one or more times [~~within ten years of the instant~~
17 offense]:

18 (A) A judgment on a verdict or a finding of guilty,
19 or a plea of guilty or nolo contendere, for a
20 violation of this section or section 291-4.4 as
21 that section was in effect on December 31, 2001;



1 (B) A judgment on a verdict or a finding of guilty,
2 or a plea of guilty or nolo contendere, for an
3 offense that is comparable to this section or
4 section 291-4.4 as that section was in effect on
5 December 31, 2001; or

6 (C) An adjudication of a minor for a law or probation
7 violation that, if committed by an adult, would
8 constitute a violation of this section or section
9 291-4.4 as that section was in effect on
10 December 31, 2001,

11 that, at the time of the instant offense, had not been
12 expunged by pardon, reversed, or set aside. All
13 convictions that have been expunged by pardon,
14 reversed, or set aside prior to the instant offense
15 shall not be deemed prior convictions for the purposes
16 of proving the person's status as a habitual operator
17 of a vehicle while under the influence of an
18 intoxicant.

19 (3) "Habitual operator of a vehicle while under the
20 influence of an intoxicant" means that the person:



1 (A) Was convicted [~~three~~] two or more times for
2 offenses of operating a vehicle under the
3 influence; or

4 (B) Was convicted one or more times for offenses of
5 habitually operating a vehicle under the
6 influence."

7 2. By amending subsection (d) to read:

8 "(d) For a conviction under this section, the sentence
9 shall be either:

10 (1) An indeterminate term of imprisonment of five years;
11 or

12 (2) A term of probation of five years, with conditions to
13 include:

14 (A) Mandatory revocation of license and privilege to
15 operate a vehicle for a period [~~not~~] no less than
16 [~~one year~~] three years but [~~not~~] no more than
17 five years;

18 (B) [~~Not~~] No less than ten days imprisonment, of
19 which at least forty-eight hours shall be served
20 consecutively;



1 (C) A fine of no less than \$2,000 but no more than
2 \$5,000;
3 ~~[(C)]~~ (D) Referral to a certified substance abuse
4 counselor as provided in section 291E-61(d);
5 ~~[(D)]~~ (E) A surcharge of \$25 to be deposited into the
6 neurotrauma special fund; and
7 ~~[(E)]~~ (F) May be charged a surcharge of up to \$50 to
8 be deposited into the trauma system special fund
9 if the court so orders.

10 In addition to the foregoing, any vehicle owned and operated by
11 the person committing the offense shall be subject to forfeiture
12 pursuant to chapter 712A~~[7]~~; provided that the department of
13 transportation shall provide storage for vehicles forfeited
14 under this subsection. In addition to all other penalties
15 provided, any person convicted under this section shall be
16 prohibited, for a probation period commencing on the effective
17 date of the license revocation period under subparagraph (A) and
18 expiring on a date to be determined by the court, from
19 purchasing or publicly consuming liquor, if deemed appropriate
20 by the court."

21 3. By amending subsection (f) to read:



1 "(f) Notwithstanding any other law to the contrary,
2 whenever a court revokes a person's driver's license pursuant to
3 this section, the examiner of drivers shall not grant to the
4 person a new driver's license until expiration of the period of
5 revocation determined by the court. After the period of
6 revocation is complete, the person may apply for and the
7 examiner of drivers may grant to the person a new driver's
8 license. Any new driver's license granted pursuant to this
9 subsection to a person prohibited from purchasing or publicly
10 consuming liquor during the probation period that commences on
11 the effective date of the administrative revocation of the
12 person's license shall bear the notation "Liquor Restricted" and
13 shall not be accepted as a valid form of identification for the
14 purchase of liquor. A driver's license that bears the notation
15 "Liquor Restricted" shall expire no later than the date upon
16 which the probation period expires, as determined by the court."

17 SECTION 12. Section 291E-62, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) No person whose license and privilege to operate a
20 vehicle have been revoked, suspended, or otherwise restricted
21 pursuant to this section or to part III or section 291E-61 or



1 291E-61.5, or to part VII or part XIV of chapter 286 or section
2 200-81, 291-4, 291-4.4, 291-4.5, or 291-7 as those provisions
3 were in effect on December 31, 2001, shall operate or assume
4 actual physical control of any vehicle:

5 (1) In violation of any restrictions placed on the
6 person's license;

7 (2) While the person's license or privilege to operate a
8 vehicle remains suspended or revoked;

9 (3) Without installing an ignition interlock device
10 required by this chapter; or

11 (4) With an ignition interlock permit unless the person
12 has the ignition interlock permit [~~and a valid State~~
13 ~~of Hawaii identification card~~] in the person's
14 immediate possession."

15 SECTION 13. Section 712-1250.5, Hawaii Revised Statutes,
16 is amended to read as follows:

17 "§712-1250.5 Promoting intoxicating liquor to a person
18 under the age of twenty-one[-] or a restricted person. (1) A
19 person, including any licensee as defined in section 281-1,
20 commits the offense of promoting intoxicating liquor to a person



1 under the age of twenty-one or a restricted person if the person
2 recklessly:

3 (a) Sells or offers for sale, influences the sale, serves,
4 delivers, or gives to a person intoxicating liquor,
5 and the person receiving the intoxicating liquor is a
6 person under the age of twenty-one[+] or a restricted
7 person; or

8 (b) Permits a person to possess intoxicating liquor while
9 on property under [~~his~~] the permitting person's
10 control, and the person possessing the intoxicating
11 liquor is a person under the age of twenty-one[+] or a
12 restricted person.

13 (2) It is a defense to a prosecution for promoting
14 intoxicating liquor to a person under the age of twenty-one or a
15 restricted person that:

16 (a) The intoxicating liquor provided to the person under
17 the age of twenty-one or restricted person was an
18 ingredient in a medicine prescribed by a licensed
19 physician for medical treatment of the person under
20 the age of twenty-one[+] or restricted person;



1 (b) The intoxicating liquor was provided to the person
2 under the age of twenty-one or restricted person as
3 part of a ceremony of a recognized religion;

4 (c) The defendant provided the intoxicating liquor to the
5 person under the age of twenty-one or restricted
6 person with the belief, which was reasonable under the
7 circumstances, that the person under the age of
8 twenty-one had attained the age of twenty-one[+] or
9 was not a restricted person;

10 (d) The defendant provided the intoxicating liquor to the
11 person under the age of twenty-one with the express
12 consent of the parent or legal guardian and with the
13 belief, which was reasonable under the circumstances,
14 that the person under the age of twenty-one would not
15 consume any portion of the substance;

16 (e) The defendant provided the intoxicating liquor to the
17 person under the age of twenty-one with the express
18 consent of the parent or legal guardian and with the
19 belief, which was reasonable under the circumstances,
20 that the person under the age of twenty-one would



1 consume the substance only in the presence of the
2 parent or legal guardian; or

3 (f) The intoxicating liquor was possessed by the person
4 under the age of twenty-one or restricted person to be
5 sold or served as allowed by law.

6 (3) The fact that a person engaged in the conduct
7 specified by this section is prima facie evidence that the
8 person engaged in that conduct with knowledge of the character,
9 nature, and quantity of the intoxicating liquor possessed,
10 distributed, or sold.

11 The fact that the defendant distributed or sold
12 intoxicating liquor to a person under the age of twenty-one is
13 prima facie evidence that the defendant knew the transferee was
14 a person under the age of twenty-one, except as provided in
15 subsection (2)(c).

16 (4) Promoting intoxicating liquor to a person under the
17 age of twenty-one or a restricted person is a misdemeanor.

18 (5) For purposes of this section, "restricted person"
19 means a person who holds any driver's license, identification
20 card, or special permit that bears the notation "Liquor
21 Restricted" due to conviction or administrative license



1 revocation for violation of section 291E-61 or section 291E-
2 61.5."

3 SECTION 14. (a) The president of the senate and the
4 speaker of the house of representatives shall convene a task
5 force to review existing laws relating to driving under the
6 influence of an intoxicant pursuant to section 291E-61, Hawaii
7 Revised Statutes.

8 (b) The task force shall include:

9 (1) Two members to be appointed by the president of the
10 Senate;

11 (2) Two members to be appointed by the speaker of the
12 house of representatives;

13 (3) Two district court judges appointed by the chief
14 justice of the supreme court of Hawaii; and

15 (4) The director of transportation who shall serve as an
16 ex-officio member.

17 The task force may add additional members as it deems necessary.

18 (c) The task force shall submit a report of its findings
19 and recommendations on how to strengthen the State's laws
20 relating to driving under the influence of an intoxicant to
21 prevent first-time and repeat offenders, including any proposed



1 legislation, to the legislature no later than twenty days prior
2 to the convening of the regular session of 2020.

3 SECTION 15. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

6 SECTION 16. If any provision of this Act, or the
7 application thereof to any person or circumstance, is held
8 invalid, the invalidity does not affect other provisions or
9 applications of the Act that can be given effect without the
10 invalid provision or application, and to this end the provisions
11 of this Act are severable.

12 SECTION 17. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 18. This Act shall take effect on January 28,
15 2081.



Report Title:

Intoxicating Liquor; Operating a Vehicle Under the Influence

Description:

Allows, under certain circumstances, the courts to prohibit a person convicted of Operating a Vehicle Under the Influence of an Intoxicant (OVUII) or Habitually Operating a Vehicle Under the Influence of an Intoxicant (HOVUII) from purchasing or publicly consuming alcohol for a probation period to be determined by the court, following a sentencing or administrative license revocation. Amends the sentencing requirements for OVUII and HOVUII offenses. Amends the threshold for HOVUII offenses. Requires the President of the Senate and the Speaker of the House of Representatives to convene a task force to review existing laws relating to driving under the influence of an intoxicant. Effective 1/28/2081.
(SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

